



Natural Resources Conservation Service
655 Parfet Street, Room E200C
Lakewood, Colorado 80215

VIA ELECTRONIC MAIL

AMENDED COLORADO BULLETIN NO.: CO-300-06-02

November 21, 2005

SUBJECT: LTP - Cancellation and Terminations of Environmental
Quality Incentives Program (EQIP) contracts

TO: All Natural Resources Conservation Service (NRCS) Offices

PURPOSE: To provide updated guidance regarding policy for canceling
or terminating EQIP contracts.

EXPIRATION DATE: September 30, 2006

CANCELLATIONS

As per the Conservation Programs Manual (CPM) part 512.57a, Cancellation is an *equitable remedy* that allows both parties to the contract to terminate the contractual relationship (see paragraph 512.57b). A recovery of costs may or may not be appropriate depending upon the circumstances included in the program participant's written request for cancellation.

When a producer is voluntarily requesting to **cancel** an EQIP contract it is important to follow the following procedure. In Colorado, Form LTP-153 may be used for cancellations, terminations and documentation of any other contract non-compliance issues.

1). As indicated in the EQIP manual Part 515.115a and CPM Part 512.57b, the cancellation should begin with NRCS receiving a letter written and signed by the producer explaining in detail why they wish to cancel the contract, and, if applicable, information on availability of successor-in-interest. It is important that the designated conservationist inform the participant about the detailed information that should be included in the participant's letter. A thorough explanation of details warranting contract cancellation documented on the form LTP-153 (dated 10/97) Agreement Covering Non-Compliance with Provisions of Contract (see attached example) and signed by the participant is an acceptable alternative in lieu of the participant's letter requesting cancellation.

2). The NRCS designated conservationist will then use information from the participant, technical notes, contract status reviews and any other sources deemed necessary to thoroughly complete section 1 on the LTP-153.

Filling out the LTP-153 (See attached example)

Section 1- should summarize all information used in the designated Conservationists recommendation on repayment requirements such as detailing the financial, health, or other reasons leading to the cancellation request.

Section 2 – should have box “A” checked if a cancellation or termination is the recommendation of the designated conservationist.

Section 3 – The amount of refunds and recovery costs that could possibly be assessed should be calculated and clearly shown in this section. For all 2005 and prior contracts, follow the CCC-1200 appendix the participant signed to calculate costs. For contracts signed in 2006 and later follow guidance given in CPM 512.58 that includes a table for determining recovery costs.

The recommendation of the designated conservationist to waive or assess cost recovery and for how much should be included in this section.

3). The designated conservationist will then review the LTP-153 with the participant and obtain the participants signature. In the event the participant does not sign the LTP-153, proceed with step 4 below.

4). The designated conservationist will then forward the original letter (if received) from the participant and the LTP-153 to the Area office for review by the Contracting Officer.

5). If the contracting officer is in agreement with the details and terms of the request they will sign the LTP-153 and forward all documents to the Assistant State Conservationist for Programs (ASTC-P) for the State Conservationist's (STC) review. The STC will make the final determination on cancellation requests and decisions on cost recovery. The STC will inform the participant of the final decision.

TERMINATIONS

As per the Conservation Programs Manual (CPM) part 512.57a, a contract is subject to termination as a result of a material breach of the terms and conditions included in the contract (See paragraph 512.57c). Terminations for such cause will usually result in an assessment of liquidated damages for a recovery of costs associated with the administration of the breached contract. (See paragraph 512.58).

Procedures for terminations are the same as for cancellations except that explanations by the participant are not required. The designated conservationist will proceed with completing the LTP-153 and having it signed by the participant. The LTP-153 will then be forwarded to the contracting officer for review, and procedures will follow those used for cancellations. In the

event that a participant refuses to sign the LTP-153, the designated conservationist will document this on the form and forward as usual.

For information regarding cancellations and terminations of EQIP contracts refer to CPM 512 subpart F, 512.57 and 512.58. These procedures and policies supersede 440 Parts 515.115 and 515.116 until a new EQIP manual is issued.

/s/ Frank R. Riggle (for)

ALLEN GREEN
State Conservationist

Attachment

Dist: O

United States Department of Agriculture
Natural Resources Conservation Service

**AGREEMENT COVERING NON-COMPLIANCE
WITH PROVISIONS OF CONTRACT**

FORM APPROVED
OMB NUMBER 0578-0019

NRCS-LTP-153
10/97

EQIP

This information is used in both the development and implementation of a Conservation, Reclamation or Water Quality plan as the basis for technical assistance and/or cost sharing. The authorities for such work are: 16 USC 590a-f (Soil Conservation); 16 USC 1301-1311 (Water Bank); 16 USC 590p(b) (Great Plains); 30 USC 1236 et seq. (Rural Abandoned Mines); 33 USC 1288 et seq. (Rural Clean Water). Furnishing information is voluntary and will be confidential; however, it is necessary in order to receive assistance.

STATE:: Colorado

COUNTY: Grit

CONTRACT NO.: 748B000A000

PARTICIPANT (S)

PARTICIPANT(S)

Harry Farmer

11111 S. Corn Field

Cornbread, Colorado, 00012

1. DETAILS OF NON-COMPLIANCE:

During the last year Mr. Farmers daughter Silky Farmer was in a car accident and sustained serious injuries. Due to medical expenses associated with the injuries Mr. Farmer does not believe he can continue with his 2004 EQIP contract.

2. NATURE AND EFFECT OF NON-COMPLIANCE WITH PROVISIONS OF CONTRACT (CHECK APPLICABLE BLOCK)

- A. ☒ WARRANTS TERMINATION OF THE CONTRACT-CONTRACT TERMINATED
B. ☐ DOES NOT WARRANT TERMINATION OF THE CONTRACT-CONTRACT NOT TERMINATED

3. FORFEITURE, REFUND OR PAYMENT ADJUSTMENT (SET OUT FOR EACH PARTICIPANT NAMED AT TOP OF PAGE)

Participant has been paid \$4,000.00 for cost share assistance. According to the appendix signed with the contract, the cancellation of the contract can also be subject to recovery costs up to 20% of the original contract obligation of \$20,000.00, which amounts to \$4,000.00. The total amount due for refunds and recovery of costs for administrating the contract is \$8,000.00.

I, Drake Goose, District Conservationist, recommend that the refunds, interest and recovery of cost be waived based on the participants letter and reason stated in section 1 above.

4. ACCEPTANCE OF PARTICIPANT(S)

THE UNDERSIGNED HEREBY AGREES THAT, UNDER THE ABOVE IDENTIFIED CONTRACT, HIS FORFEITURE OR REFUND OR PAYMENT ADJUSTMENT SHOWN IN PARAGRAPH 3 ABOVE IS PROPER AND ANY AMOUNTS IN CONNECTION THEREWITH, AS INDICATED IN PARAGRAPH 3 ABOVE ARE DUE AND OWING. THE UNDERSIGNED ALSO AGREES TO THE NATURE AND EFFECT OF NON-COMPLIANCE SET OUT IN PARAGRAPH 2 OF THIS FORM AND WAIVES THE RIGHT TO ANY FURTHER PROCEEDINGS UNDER THE REGULATIONS GOVERNING CONTRACT VIOLATIONS.

(SIGNATURE)

(DATE)

(SIGNATURE)

(DATE)

(SIGNATURE)

(DATE)

(SIGNATURE)

(DATE)

5. APPROVAL

(CONTRACTING OFFICER)

(DATE)

(STATE CONSERVATIONIST)

(DATE)

OMB DISCLOSURE STATEMENT

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0578-0019. The time required to complete this information collection is estimated to average 60 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.